

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: SALES TAX SUB-COMMITTEE

DATE: JANUARY 21, 2015

COMMITTEE MEMBERS PRESENT: OTHERS PRESENT:

SUPERVISORS TAYLOR
DICKINSON
MERLINO
STROUGH
WOOD

PAUL DUSEK, COUNTY ADMINISTRATOR
MARTIN AUFFREDOU, COUNTY ATTORNEY
JOAN SADY, CLERK OF THE BOARD
FRANK E. THOMAS, BUDGET OFFICER

SUPERVISORS BEATY
BROCK
CONOVER
KENNY
SIMPSON
VANSELOW

MICHAEL SWAN, COUNTY TREASURER
DON LEHMAN, *THE POST STAR*
CHARLENE DiRESTA, SR. LEGISLATIVE OFFICE SPECIALIST

Mr. Taylor called the meeting of the Sales Tax Sub-Committee to order at 10:37 a.m.

Copies of the agenda were distributed to the Committee members; *a copy of same is on file with the minutes.*

Mr. Taylor commented this was the first meeting of the Sales Tax Sub-Committee; however, he noted a lot of research had been completed in order to prepare for it. He thanked Michael Swan, County Treasurer; Robert Lynch, Deputy County Treasurer; Martin Auffredou, County Attorney; and Bruce Caster, Attorney for the New York State (NYS) Department of Taxation, for their assistance in gathering the necessary information. He requested that the Committee members focus on the topic of sales tax allocation and not divert the discussion to other means of increasing revenues to the Towns.

Mr. Auffredou gave a Power Point Presentation entitled "NYS Tax Law Section 1210, as Applicable to Warren County"; *a copy of the Power Point Presentation is on file with the minutes.* He explained the current sales tax rate in Warren County was 7%, of which 4% was allocated to New York State. For sales tax collected outside of the City of Glens Falls, he apprised, the remaining 3% was divided equally, after expenses, with 1.5% allocated to Warren County and 1.5% dispersed to the individual Towns based on the assessed valuation formula pursuant to Section 1262(d) of the NYS Tax Law and long established Warren County local laws and resolutions. For sales tax collected inside the City of Glens Falls, he continued, the remaining 3% was divided evenly with 1.5% being allocated to Warren County and 1.5% retained by the City. Mr. Auffredou explained that in 2002 there was a 30 year agreement executed between the Town of Queensbury, the City of Glens Falls and the County with respect to an additional 2% of Warren County's net sales tax revenues being allocated to the City of Glens Falls for the purpose of certain sewer treatment infrastructure. He pointed out this pertained to 2% of the unallocated sales tax revenues before they were dispersed to the Towns based on the assessed valuation formula. He commented the 2% was treated as an additional expense before the sales tax revenues were allocated to the County and individual Towns.

Based on the explanation presented, Mr. Dickinson commented it seemed as if the individual Towns covered the 2% allocation to the City of Glens Falls pursuant to the 2002 agreement. Mr. Auffredou disagreed and asserted the 2% was derived from County's sales tax revenues. Mr. Dickinson

countered the 2% was allocated from the "pot" of money shared by the County and the individual Towns and Mr. Auffredou agreed.

Mr. Brock said when he compared the figures he received concerning sales tax distributions, the amounts should equal out and he questioned how. Mr. Swan explained the 2002 agreement was between the County and the City of Glens Falls and the 2% received by the City was derived from the County's share of the sales tax revenues. He presented the example of \$50 million in sales tax revenues and explained \$25 million would be dispersed to the Towns based on the assessed valuation formula; \$24 million would be allocated to the County; and \$1 million would be allocated to the City of Glens Falls pursuant to the 2002 agreement. He further explained the sales tax revenues were actually dispersed, as follows: 48% to the County; 2% to the City of Glens Falls; and 50% to the individual Towns based on the assessed valuation formula.

Mr. Auffredou opined the purpose of this meeting was to describe the history of sales tax distribution in Warren County and discuss the law and possible options for changing the distribution formula. He noted the agreement between the County and the City of Glens Falls was executed in 2002 and would expire in 2031. He stated distribution of the sales tax revenues was determined pursuant to a complicated formula contained within the agreement. He said he did not think the purpose of the meeting was to debate or dissect that agreement. He noted the charge of the Sales Tax Sub-Committee was to determine if there were any other viable options for the distribution of sales tax revenues and Mr. Taylor agreed. Mr. Strough stated he felt it was important for the Committee members to fully understand the current means of sales tax revenue distributions. He said for clarification purposes that there was a total amount collected from sales tax and from that amount the expenses were deducted; he added the County's share was deducted from the remainder, then 2% was allocated to the City of Glens Falls and the rest was distributed to the individual Towns based on an apportionment formula. He asked if his assessment was correct and Mr. Swan replied the sales tax collections after expenses were split 50/50 between the County and the individual Towns; however, he continued, the County ended up with 48% because the 2% allocation for the City of Glens Falls was deducted from the County's share. A brief discussion ensued pertaining to the current distribution of sales tax revenues.

Continuing, Mr. Auffredou presented the following 3 options for sales tax distributions, noting there was also the option of continuing with the current method:

- ▶ Option 1 - the County could relinquish a portion of their share of the sales tax revenues for additional distributions to the Towns which would have a negative effect on the property tax levy;
- ▶ Option 2 - the City of Glens Falls could opt out of Section 1210 of the NYS Tax Law and no longer retain 1.5% of sales tax collected within the City and could enter into an agreement with the County under Section 1262(c) of the NYS Tax Law which would allow more flexibility in the distribution of sales tax revenues to the individual Towns; or
- ▶ Option 3 - the County could seek special legislation for the distribution of sales tax revenues outside of the City of Glens Falls.

Mr. Auffredou explained Option 1 was unlikely to be considered by members of the Board of Supervisors as it would result in an increase to the County's property tax levy. He noted the County's revenue from sales tax collections would decrease causing an increase to the tax levy. Option 2, he continued, would require discussions with the City of Glens Falls because he was sure they would desire some sort of incentive to agree to this option. He explained the City of Glens Falls currently collected sales tax (7%) under Section 1210 of the NYS Tax Law which allowed them to retain half of the revenues (1.5%). He noted this was the same Section of the NYS Tax Law under

which the County currently collected sales tax. He apprised Section 1262(c) of the NYS Tax Law was the same statute the 2002 agreement had been based on. If the City opted out of Section 1210, he commented, the County could enter into an arrangement with the City whereby all of the sales tax revenues (3%) would be allocated to the County and by agreement the City would be made whole on a certain amount, presumably the 1.5% currently retained by them. Under Option 2, Mr. Auffredou explained, the City would receive an amount equivalent to the 1.5% they currently retained plus some type of agreed upon incentive. He noted this option would allow the County more flexibility in the distribution of sales tax revenues to the individual Towns. Mr. Dickinson asked if Option 2 merely changed the method of collection to allow the County more flexibility with the distributions and Mr. Auffredou replied affirmatively. Mr. Auffredou stated Option 3 was for the County to seek special legislation particular to Warren County which would give them the ability to distribute the revenues to the individual Towns (outside of the City) pursuant to a different formula or arrangement other than the assessed valuation formula [Section 1262(d)]. He commented the proposed special legislation would be sent to the NYS Department of Taxation for review and approval. He noted this option would require a 2/3 majority vote of the Board of Supervisors in order to further the legislation through the NYS process.

Mr. Dickinson opined the problem with changing the current distribution of sales tax was that the County essentially had a partnership with the City of Glens Falls. He asked if Options 2 and 3 would relieve the County of that partnership and Mr. Auffredou responded Option 2 would give the County more flexibility with respect to the distribution of sales tax revenues; however, he continued, Option 3 would have no effect on the current agreement between the County and the City of Glens Falls. Mr. Auffredou explained Option 3 would remove the County from the restrictions of Section 1262(d) of the NYS Tax Law and allow more flexibility with the formula used for sales tax distributions outside of the City of Glens Falls. Currently, he continued, the sales tax distribution formula was based on assessed valuations and concerns had been raised by some Supervisors that this formula was unfair.

Ms. Wood asked if special legislation would be required for Option 2 and Mr. Auffredou replied in the negative. Mr. Auffredou stated his understanding of Section 1262(c) of the NYS Tax Law was that if the County was in control of the collection of sales tax revenues (3%) inside and outside of the City of Glens Falls, they could enter into an agreement under Section 1262(c) to distribute the agreed upon amount to the City of Glens Falls. He reiterated this option would give the Board of Supervisors the ability to be more flexible with the distributions to the individual Towns, as the County would no longer be subject to Section 1262(d) which was the assessed valuation formula. Because the City of Glens Falls currently collected sales tax under Section 1210 of the NYS Tax Law, he continued, the County was restricted under Section 1262(d) with respect to the distribution of sales tax revenues.

Mr. Beaty inquired what incentive the City of Glens Falls would have to pursue any other options for sales tax distributions if it would not result in additional revenues and Mr. Auffredou replied that was a political question and not a legal one; however, he commented the agreement could include an incentive resulting in additional revenue over a period of time. Mr. Auffredou presented the example of offering a certain percentage of increase after a predetermined amount of time. Mr. Beaty asked if that scenario would result in the County generating less revenue from sales tax collections, as well as less revenues for the distributions to the Towns. Mr. Auffredou replied that based on projections and assumptions this scenario would not necessarily result in less revenues; however, he pointed out, this would in part solve the problem of the way sales tax revenues were distributed to Towns outside of the City of Glens Falls. Mr. Taylor pointed out that under the 2002 agreement, the City of Glens Falls would lose a significant amount of sales tax revenue in 2032. Mr. Strough commented the only reason for the City of Glens Falls to agree to a change in sales tax collections/distributions

would be if it resulted in a monetary gain. He added if the City of Glens Falls received a larger percentage of the distributions then there would be less revenues for the County and the individual Towns. Mr. Auffredou apprised there would not necessarily be a guarantee that the City of Glens Falls would receive more sales tax revenues but there was the possibility of developing a formula which would present the City with the potential to generate more sales tax revenues. Mr. Merlino opined the County had made a mistake in 2002 with the original agreement in agreeing to allocate an additional 2% to the City of Glens Falls as opposed to a set dollar amount. He said in 2002 the City was generating about \$330,000 a year in additional revenue from the agreement but now that amount was in excess of \$500,000 per year. He noted sales tax revenues continued to increase and the City would continue to receive a greater amount each year of the agreement. He said he believed the City was generating more revenue than had originally been intended with the agreement. He advised the County was paying in excess of \$500,000 in sales tax revenues to help one particular municipality with their infrastructure.

Mr. Merlino advised the subject of possible ways to change the distribution of sales tax revenue had arisen to determine ways to help the smaller Towns in Warren County receive a more fair share. He mentioned the Town of Lake Luzerne would probably never have a large box store which would collect a large amount of sales tax; however, he pointed out, the residents of the Town of Lake Luzerne shopped at the stores in the Town of Queensbury thereby adding to the sales tax collections in Warren County. He suggested the possibility of taking 1% of the County's share of sales tax revenue, about \$250,000, to be distributed to the smaller Towns. With the current distribution formula, he said he believed in the next 5 years, more revenues would be allocated to the larger Towns resulting in less revenues being allocated to the smaller Towns.

Mr. Brock said he understood that currently distribution of sales tax was determined based on the assessed valuation formula and he asked if the County could change the distribution formula without the City of Glens Falls opting out of Section 1210. Mr. Auffredou responded that as long as the City of Glens Falls collected sales tax under Section 1210 of the NYS Tax Law, the County was limited to the formulas under Section 1262(d), the assessed valuation formula. He noted there was discussion within that statute pertaining to populations and the latest census but he did not see this as a viable option for Warren County. He opined the most viable options were the ones he had identified earlier in the meeting as Options 1, 2 and 3.

Mr. Kenny stated Option 1 would result in a property tax increase and was therefore not a viable option. Option 2, he continued, was unlikely as it would require the agreement of the City of Glens Falls to opt out of Section 1210. He said he felt Option 3 was also not viable because it would require the Towns that currently received the majority of the distributions to accept a lesser amount in order for the smaller Towns to receive a greater amount.

Mr. Dickinson agreed with Mr. Kenny and stated that none of the options were viable. He informed the assessed valuation in the Town of Lake George had decreased by 20% over the last 5 years but he still felt the assessed valuation formula was the fairest means of distributing sales tax revenues. He proposed that the County take the casino revenues received and distribute 50% to the Towns for additional revenue and earmark 50% for the environmental fund for invasive species. He commented the casino revenues had been unallocated and totaled about \$400,000 in 2014. He opined these revenues would be put to better use if they were distributed to the Towns and earmarked for invasive species, rather than being allocated to the General Fund. He mentioned this was not taxpayer money and he referred to casino revenues as "found money". He commented \$400,000 was received from casino revenues in 2014 and approximately \$500,000 was anticipated for 2015. Mr. Taylor said Mr. Dickinson's idea was a good one; however, he asked that the Committee focus on the topic of sales tax allocations. Mr. Kenny said Mr. Dickinson had made a good

point; however, the casino revenues had already been budgeted for 2015. A brief discussion ensued. Mr. Swan apprised that both Option 2 and 3 would result in allowing reallocation of the revenues to the individual Towns. He said the Board of Supervisors would need to decide if either of these options were viable. He stated that as long as the 2002 agreement was in place, the County was restricted as to how the sales tax revenues were distributed to the Towns and Mr. Auffredou agreed. Mr. Auffredou reiterated that as long as the City of Glens Falls collected sales tax under Section 1210, the County was restricted under Section 1262(d) to distribute sales tax revenues based on the assessed valuation formula.

Mr. Strough commented he could make the argument that the Town of Queensbury should receive a greater portion of the sales tax revenues because they represented 42% of the population of Warren County. He said he could also make the argument that the Town of Queensbury expended millions of Queensbury taxpayer dollars on maintaining the roads and infrastructure which generated the sales tax revenues. He mentioned it was fair to say that the Town of Queensbury generated the majority of the sales tax revenues. He opined if the County was discussing the possibility of reapportioning the sales tax revenues, then they also needed to discuss the reapportionment of the burden of property taxes. He commented the residents of the Town of Queensbury paid the majority of the property taxes to Warren County. He informed the Town of Queensbury had about \$250 million worth of non-taxable properties and they bore the burden of providing infrastructure, emergency medical services and fire services to public buildings, such as the Warren County Municipal Center and SUNY (State University of New York) Adirondack. He opined if any formula of distribution were determined which resulted in less sales tax revenues for the Town of Queensbury, the County would suffer in the long run. If the Town of Queensbury were allocated fewer resources, he continued, and ceased to expand their infrastructure, then the sales tax revenues would cease to increase. He stated he was not in favor of any redistribution which would result in less sales tax revenues to the Town of Queensbury.

Mr. Thomas agreed with all of Mr. Strough's statements. He said if the Towns of Stony Creek and Queensbury had the same land restrictions, the current sales tax distribution method would not trouble him; however, he continued, NYS limited what the Towns of Stony Creek and Horicon, as well as portions of the Towns of Lake Luzerne and Warrensburg, could do with the lands.

Mr. Conover stated there was not a municipality that he was aware of which did not allocate the expense of government based on an assessed valuation. He mentioned the expense of government less revenues equaled the tax levy. If revenue was diverted, he continued, the tax levy would increase. He informed NYS and the Federal Government taxed based on an income approach and citizens filed income tax returns to cover the cost of government. He said Warren County allowed the municipalities to take their share of the sales tax revenues based on assessed valuation. He added that because of this distribution, the Towns' property tax levy for the County increased proportionately. He pointed out the share of sales tax revenues for smaller municipalities, such as the Towns of Horicon and Chester had increased over the last 6 years. He noted there had been comments made that the share of sales tax distributions were disproportionate because of the Town of Lake George; however, he added, the Town of Lake George's share of sales tax revenues had decreased over the last 6 years, as well as the share received by the Town of Bolton. He mentioned the share of sales tax revenues for the Town of Warrensburg had increased slightly in the last 6 years and he added the share for the Towns of Hague and Thurman had remained fairly steady. Mr. Conover stated the Town of Queensbury's share of the County's expenses had increased by almost 1% or approximately \$1.3 million over the past 6 years. He explained that if a Town's share of the sales tax revenue increased, their share of the County levy also increased. He stated this was how the County collected and distributed sales tax revenues and the Town's were allowed to receive their

portion of the revenues if they chose to do so. He pointed out some of the Towns elected to leave some of their portion with the County which would have otherwise been applied against their County levy. When a County adopted sales tax, Mr. Conover explained, Cities were allowed the option of preempting the collection of taxes to retain half. He commented this was a right of the Cities and was not a negotiated matter. Mr. Conover stated he felt Mr. Dickinson's suggestion for the allocation of casino revenues would bear more fruit going forward. He displayed the Report of Equalization and Apportionment and opined this was the most important financial information on the County that was available.

Mr. Brock said he had completed an analysis of the distribution of sales tax revenues over the last 5 years and the municipalities that had decreased the most had been the lake front Towns of Bolton, Lake George and Lake Luzerne. Mr. Strough asked if sales tax revenue had increased by approximately 1.2% and Mr. Swan replied affirmatively. Mr. Strough pointed out the inflation rate had increased by 1.5% and if you took inflation into account then the sales tax revenue had actually decreased. He advised the effort and analysis of the County would be better spent on determining ways to increase sales tax revenue and Mr. Taylor noted that effort fell under economic development.

Mr. Dickinson stated the decrease in the assessed valuation of the Town of Lake George was a serious problem and was the driving force behind the Town's Comprehensive Plan. He informed Lake George was the smallest Town in NYS and was located in the foothills of the Adirondacks. He apprised that zoning ordinances which set the tone of a neighborhood and established the ability for a community to grow were based on vacant land, which the Town of Lake George had very little of. He stated the Town of Lake George's Comprehensive Plan was focused on redevelopment and the driving force was to keep the Town in the economic position it belonged in. He pointed out a lot of Lake George businesses had been constructed from the 1950's to the 1970's and were located on prime properties. He informed the current zoning ordinances limited the redevelopment of these businesses but the Comprehensive Plan involved allowing redevelopment to get these properties back on the tax rolls. He reiterated his suggestion to consider allocating the casino revenue between the environmental fund for invasive species and distribution to the individual Towns.

Mr. Taylor said he felt the Sales Tax Sub-Committee had served its purpose; however, he continued, in order to complete their intent, it would be necessary to determine if any of the three options presented were viable for the redistribution of sales tax revenues. Following a brief discussion, it was the consensus of the Committee that Options 1, 2 and 3 as presented were not viable for the redistribution of sales tax revenues.

Mr. Merlino agreed the three options were not viable; however, he opined the County should look at other options to increase revenues to the Towns, such as the suggestion made by Mr. Dickinson. He stated his intention had been to find a way to help support the smaller Towns of Warren County that received a smaller portion of sales tax revenue. He said he agreed with most of the statements made at this meeting. He stated his point had been that residents of smaller Towns in Warren County paid higher taxes than the larger Towns. He said the taxes in the Town of Queensbury were about \$.56 per \$100,000 of assessed value, the Town of Bolton was about \$.51 per \$100,000 and the Town of Hague did not have a Town tax. He added the smaller Towns taxes were about \$3.80 per \$100,000 of assessed value. He noted the monies which helped the Towns to reduce their tax rates were derived from the sales tax. Mr. Merlino pointed out the Town of Warrensburg was the second largest Town with the second largest population in Warren County yet they received less sales tax than the Town of Lake Luzerne. He apprised the smaller Towns carried the same debt obligations as the larger Towns.

Mr. Kenny said he appreciated the discussion today because out of discussion new ideas were garnered. He informed that in 1998 he had served on the Revenue Enhancement Sub-Committee which consisted of himself; Nicholas Caimano, former Town of Queensbury Supervisor-at-Large; and Jerold Quintal, former Supervisor for the Town of Warrensburg. He said they had discussed possible means of enhancing revenues through sales and occupancy tax. He stated that it was refreshing to hear all of these ideas again but he informed these matters had been discussed in the past.

Mr. Dickinson mentioned that Warren County was one of three Counties which still had a sales tax rate of 7%. He said there was a lot of push back from the State legislation about the possibility of increasing the sales tax rate by 1%. He informed the State legislature was concerned that any increase in the sales tax rate be utilized to directly benefit the taxpayers. Mr. Dickinson asserted that between appropriate use of the casino revenues and requesting a 1% increase in the sales tax rate from the State legislature, Warren County could devise a long term program which would benefit the County and the individual Towns. He reiterated that in order to obtain approval for the 1% increase to the sales tax rate, Warren County would need to develop a program which would directly benefit the taxpayers.

Mr. Thomas stated another option was to develop ways to increase the sales tax revenue in the Town of Queensbury. He noted people from other Counties and even Vermont residents traveled to Queensbury to shop. He said efforts should be made to attract more large box stores to the area. Mr. Taylor agreed and informed the EDC (Economic Development Corporation) was getting involved with an effort to resolve a traffic congestion issue in front of the factory outlet stores which was causing people to drive around the Town of Queensbury instead of through it.

Mr. Brock advised he had reviewed the tax base in the City of Glens Falls some time ago and had noticed that 60% was from housing. He said sometimes they pushed too much for economic development and not enough to attract wealthier home buyers to the City of Glens Falls or the Town of Queensbury. He noted it was preferable to have a balanced population of classes. He recalled hearing Mr. Merlino discussing attracting veterans through a homesteader program to buy homes in the Town of Lake Luzerne. He said these efforts would help to increase the tax base and defray the costs. He apprised Warren County needed to have a more balanced approach to economic development and look into ways to attract middle class and wealthier citizens to the area. Mr. Merlino commented when people were looking into purchasing a home in a particular area, there were things they wanted to know, such as the quality of the school district and the available recreational activities. He added one of the important factors for people purchasing a home was the tax base of the municipality that they were considering. He stated there was a large difference between paying a tax rate of \$3.80 per \$100,000 of assessed value to live in the Town of Lake Luzerne and \$.51 per \$100,000 to live in the Town of Bolton. A discussion ensued.

Mr. Taylor suggested the Sales Tax Sub-Committee inform the Chairman of the Board of Supervisors that they had served their purpose and had been unable to determine a reasonable solution to the possibility of developing a means of reallocating the sales tax revenues and suggesting that the matter be referred to the Finance and Budget Committees to determine ways to generate additional revenues to assist the individual Towns. Mr. Dickinson said he would prefer the Chairman be informed that the Committee had voted against Options 1, 2 and 3 and recommended the County determine an appropriate use of the casino revenues and request a 1% increase in the sales tax rate from the State legislature. Mr. Taylor countered it would be better to allow the Finance and Budget Committees to determine the best options moving forward. Mr. Auffredou asked if the intent was to issue a report to the Chairman indicating the Committee had examined the matter of sales tax distribution, the NYS Tax Law, had considered options and under the current framework of the law

had determined none of the options discussed were viable and that the possibility of creating new revenues to be shared with the individual Towns be referred to the Finance or Budget Committee for consideration. Mr. Dickinson stated the Committee had an opportunity to make a suggestion for the appropriate use of the casino revenues and he would want this included in the motion. He reiterated the casino revenues were not derived from Warren County taxpayers. Mr. Taylor asked if the matter should be referred to the Finance Committee and Ms. Wood suggested they allow the Chairman to determine the appropriate Committee to refer the matter to.

Motion was made by Ms. Wood, seconded by Mr. Strough and carried unanimously to draft a final report to the Chairman of the Board of Supervisors indicating the Sales Tax Sub-Committee had examined the matter of sales tax distribution, the NYS Tax Law and had considered available options and determined that under the current framework of the law none of the options were viable and that the possibility of creating new revenues to be shared with the individual Towns, including the casino revenue be referred to the appropriate committee for consideration.

As there was no further business to come before the Sales Tax Sub-Committee, on motion made by Mr. Dickinson and seconded by Mr. Merlino, Mr. Taylor adjourned the meeting at 11:44 a.m.

Respectfully submitted,
Charlene DiResta, Sr. Legislative Office Specialist